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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: New Zealand

1. The Committee considered the initial report of New Zealand (CRC/C/28/Add.3) at its 363rd to 365th meetings (CRC/C/SR.363-365), on 20 and 21 January 1997, and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for its detailed report, which has been prepared in conformity with the Committee's guidelines, and for the submission by the Government of New Zealand of written replies to its list of issues (CRC/C/Q/NZl.1). It notes with satisfaction the supplementary information provided by the delegation during and after the consideration of its report and the constructive dialogue with the delegation of the State party.

B. Positive factors

3. The Committee welcomes the adoption of the Domestic Protection Act 1995 which provides greater protection to the victims of domestic violence than was available under the former domestic violence legislation, and in particular the extension of protection under the domestic protection system to children.

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* At the 371st meeting, held on 24 January 1997.

4. The Committee notes with interest the increasing emphasis on monitoring and evaluation of the impact on children of proposed legislation and policies affecting children. In particular, it welcomes the inclusion of specific monitoring and evaluation procedures for new policy proposals submitted to Cabinet.

5. The Committee welcomes the wide range of support services that are available to assist children with a disability to enhance their development and maximize their potential.

6. The Committee welcomes the application of the age discrimination provisions of the Human Rights Act 1993 to include coverage of young persons aged 16 years and older, and the fact that the Human Rights Commission can receive complaints from children.

7. The Committee welcomes the State party's initiative of convening a "Youth Parliament" as a means of realizing an important dimension of article 12 of the Convention.

C. Principal subjects of concern

8. The Committee is concerned about the broad nature of the reservations made to the Convention by the State party, which raise questions as to their compatibility with the object and purpose of the Convention. Moreover, the Committee regrets that the State party has not extended the Convention with respect to the territory of Tokelau, which is not at present a sovereign State and remains a non-self-governing territory in important respects.

9. The Committee regrets that the State party's approach to the rights of the child appears to be somewhat fragmented, as there is no global policy or plan of action which incorporates the principles and provisions of the Convention, encompassing all the areas covered by the Convention.

10. The Committee notes with concern the lack of conformity of relevant domestic laws with the definition of the child under the Convention, especially with regard to the minimum age for charging a child with serious offences and the minimum age of access to employment. The Committee further notes with concern the appearance of a wide range of age cutoffs - which do not appear to be necessarily consistent - under legislation administered by various government entities for eligibility for different types of government support.

11. While viewing with interest the extensive delegation to non-governmental organizations of delivery of certain support services to children and their families, the Committee considers that the ultimate responsibility for the quality of such Government-supported services rests with the State party - be it at the central or local level - and that delegated programmes need careful monitoring and evaluation. In this regard, the Committee also notes that the public funding of such non-governmental organizations may raise questions as to their independence.

12. The Committee notes with concern the insufficient measures adopted to ensure effective coordination between different governmental departments competent in areas covered by the Convention as well as between the central and local authorities. The Committee is concerned that this may not only

result in a lack of a central focal point for coordinating governmental action, but also lead to inconsistency in government action.

13. The Committee is concerned about the insufficiency of measures to collect disaggregated statistical data, including in relation to the registration of complaints from children, and other information on the situation of children, especially those belonging to the most vulnerable groups. The absence of qualitative and quantitative information on the status of children makes the assessment of the implementation of the Convention difficult.

14. As regards the implementation of article 4 of the Convention, the Committee is concerned that the extensive economic reform process undertaken in New Zealand since the mid-1980s has affected the budgetary resources available for support services for children and their families and that all necessary measures to ensure the enjoyment by children of their economic, social and cultural rights to the maximum extent of the State's resources have not been undertaken.

15. The Committee regrets the rise in the number of single-parent families and is concerned about the lack of a concerted strategy by the State party to address the needs of children affected by this trend.

16. The Committee expresses its concern at the authorization provided by section 59 of the Crimes Act to use physical force against children as punishment within the family, provided that the force is reasonable in the circumstances. Moreover, the Committee notes the insufficient measures taken to address the issue of ill-treatment and abuse, including sexual abuse, within the family, as well as the issues of physical and psychological recovery and social reintegration of children victims of such ill-treatment or abuse.

17. The Committee expresses its serious concern at the high rate of youth suicide in New Zealand.

18. The Committee notes with concern that the Maori population lags significantly behind the non-Maori population in most statistics of well-being, thus reflecting that insufficient measures have been undertaken to protect and promote the enjoyment of the rights of this population group, and of Maori children in particular.

19. The Committee notes with regret that the State party does not have a comprehensive policy to deal with the issue of child labour, a basic minimum age of admission to employment, or a range of minimum ages for different types of work and working conditions.

20. The Committee expresses its preoccupation that government support services to refugees and asylum seekers, including children, appear to be differentiated according to whether persons are admitted as refugees under agreement with the UNHCR or are present in the country as the result of an individual's application for asylum.

D. Suggestions and recommendations

21. In the spirit of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in June 1993 which urged States to withdraw reservations to the Convention on the Rights of the Child, the Committee wishes to encourage the State party to take steps to withdraw its reservations to the Convention. Furthermore, the Committee encourages New Zealand to extend the application of the Convention with respect to the territory of Tokelau.

22. The Committee suggests that the State party prepare and adopt a comprehensive policy statement with respect to the rights of the child, incorporating the principles and provisions of the Convention, that could provide guidance to all those involved in support services delivered or funded by the Government.

23. The Committee recommends that the Government pursue the process of bringing existing legislation into line with the principles and provisions of the Convention. In this regard, the Committee suggests that the minimum age for being charged with very serious criminal offences and for access to employment be reviewed as a matter of priority.

24. While the Committee is encouraged that a review of all government policy, administrative practice and legislation is under way to determine consistency with the Human Rights Act 1993, the Committee suggests that a separate or complementary review take place, taking into account the principles and provisions of the Convention, of all aspects of government policy, administrative practice and legislation having an impact on children. Furthermore, the Committee suggests that the office of Commissioner for Children be strengthened and that further consideration be given to measures which would give the office increased independence and make it accountable directly to Parliament.

25. The Committee recommends that a further review of the system of data collection be undertaken, giving priority attention to the identification of appropriate disaggregated indicators, including in the field of complaint registration, with a view to addressing all areas covered by the Convention and all groups of children, particularly the most disadvantaged.

26. The Committee recommends that, with respect to the implementation of article 4 of the Convention, budget allocations should be made to the maximum extent of the State party's available resources and should give priority to the realization of the economic, social and cultural rights of children, and that particular attention be paid to children belonging to the most disadvantaged groups. The Committee also suggests that the State party undertake a study on the impact on children and their families of the economic reform process that has been ongoing for the last several years in terms of its impact on government budgetary resources available for support services, as well as on the impact of unemployment and changed conditions of employment on children, young persons and their families. Conclusions from such a study could be a useful starting point for developing a comprehensive strategy for future action.

27. The Committee suggests that a study on the projected needs of single-parent families be made in light of this increasing trend, and that

measures be taken to supplement those already in place to avoid potential negative consequences for these children and their parents in the future.

28. The Committee suggests that the State party continue to give priority to studying the possible causes of youth suicide and the characteristics of those who appear to be most at risk, and take steps as soon as practicable to put in place additional support and intervention programmes, be it in the field of mental health, education, employment or another field, which could reduce this tragic phenomenon. In this regard, the State party may want to call on Governments and experts in other countries which also may have experience in dealing with this problem.

29. The Committee recommends that the State party review legislation with regard to corporal punishment of children within the family in order to effectively ban all forms of physical or mental violence, injury or abuse. It further recommends that appropriate mechanisms be established to ensure the physical and psychological recovery and social reintegration of children victims of such ill-treatment and abuse, in the light of article 39 of the Convention.

30. While noting the efforts made by the Government in the areas of health, education and welfare with regard to the Maori population, the Committee encourages the authorities to pursue and strengthen their programmes and activities to fill the remaining gap between the Maori and the non-Maori children.

31. The Committee recommends that the policy and law in relation to child labour be reviewed and that the State party consider ratifying ILO Convention No. 138 on minimum age for admission to employment.

32. The Committee recommends that all refugee children, including asylum seekers coming to New Zealand outside UNHCR-organized schemes, be given the benefit of introduction assistance and Government-delivered or -funded support services.

33. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the publication of the initial report and written replies presented by the State party be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention, its implementation and monitoring within the Government, the Parliament and the general public, including with the concerned non-governmental organizations.